

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**K.S., by and through her parents and next friends,
T.S. and A.R.,**

Plaintiff,

vs.

Case No. 2014-CV-00385 SCY/KBM

**THE SANTA FE PUBLIC SCHOOLS;
VICKIE L. SEWING, in her individual capacity;
THE ESPANOLA PUBLIC SCHOOLS;
RUBY E. MONTOYA, in her individual capacity;
GARY F. GREGOR, in his individual capacity;**

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO STAY
DISCOVERY ON THE BASIS OF QUALIFIED IMMUNITY (Docs. 20 & 21)**

Defendants Santa Fe Public School's ("SFPS") and Sewing filed a Motion to Stay Discovery on the Basis of Qualified Immunity and Memorandum in Support on June 5, 2014. Docs. 20 & 21. As Plaintiff KS argues in Plaintiffs' Response to Defendants' Motion and Consolidated Memorandum to Dismiss and Assert the Defense of Qualified Immunity (Doc. 34), discovery should proceed in this matter after the Court denies Defendants SFPS' and Sewing's Motion to Dismiss (Doc. 19).

As set forth in Plaintiff KS's Response to Defendants SFPS and Sewing's Motion to Dismiss, the well-pleaded facts in the First Amended Complaint (Doc. 7) establish cognizable claims against Defendants SFPS and Sewing. Plaintiff KS, however, has been unable to conduct any discovery within this case thus far. While Defendants argue that a stay of discovery is proper to protect Defendants SFPS and Sewing from the burdens of discovery (Doc. 21, at p. 2), Defendants have not been required to participate in any discovery to date.

Defendants' interests in protection from the burdens of trial practice, including discovery, during the pendency of resolution of the qualified immunity issue must be balanced with Plaintiff KS's ability to gather needed information. As such, the Court should deny Defendants SFPS' and Sewing's Motion for a Stay of Discovery, after denying Defendants SFPS' and Sewing's Motion to Dismiss, and permit the parties to conduct discovery.

Respectfully submitted,

ROTHSTEIN, DONATELLI, HUGHES,
DAHLSTROM, SCHOENBURG & BIENVENU, LLP

/s/ Carolyn M. "Cammie" Nichols 7/21/14

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of July, 2014, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means.

/s/ Carolyn M. "Cammie" Nichols 7/21/14

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